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603/225-1552

RELEASE DATE:
Friday, August 1, 2008

**REPORT OF INVESTIGATION OF PROVIDENCE,
RHODE ISLAND, POLICE SERGEANT SCOTT PARTRIDGE**

In October, 2007, the United States Attorney's Office for the District of New Hampshire and the Providence, Rhode Island, office of the FBI undertook an investigation to determine whether Sergeant Scott Allen Partridge of the Providence, Rhode Island, Police Department had committed any violations of federal law when he testified at a suppression hearing at the United States District Court in Providence, Rhode Island, on July 2, 3, and 11, 2007. This investigation was initiated based on a referral made by United States District Court Judge William E. Smith, who presided over the hearing, to the United States Attorney's Office for the District of Rhode Island in August, 2007. Because the Rhode Island United States Attorney's Office prosecuted the underlying criminal case, it was recused from following up on Judge Smith's referral and the matter was referred to the United States Attorney's Office for the District of New Hampshire.

Based on a thorough review of the transcripts and records associated with this matter and detailed interviews with the key participants, the United States Attorney's Office and the FBI have determined that there is no basis to believe that Partridge committed any crimes.

The basis for this determination is discussed in the following report.

Background

The purpose of the suppression hearing was to determine whether Partridge had intentionally made any materially false statements in an affidavit he submitted in support of an application for a state search warrant. Based on Partridge's affidavit, a search warrant was issued authorizing the police to search an apartment on Pavilion Street in Providence for evidence of drug trafficking. Khalid Mason resided in the apartment. The search netted evidence that was eventually used to support federal drug trafficking charges brought against Mason and Derrick Isom. Mason was charged with conspiracy to distribute 50 grams or more of crack cocaine, possession with intent to distribute 50 grams or more of crack cocaine, and controlling a premises which he intentionally made available for the manufacture, storage, and distribution of crack cocaine. Mason filed a motion to suppress the evidence seized from his apartment claiming that Partridge fabricated much of the information in his affidavit.

In the affidavit, Partridge stated, among other things, that he and his partner, Detective Peter Conley, conducted surveillance in December, 2003, and January, 2004, outside Mason's apartment building and Isom's apartment building in Pawtucket. He stated that he saw Isom using a key to enter Mason's apartment building on several occasions and also saw him leave the building several times. Partridge also reported that on several occasions he saw Mason and Isom in one of Isom's vehicles. Partridge did not specify the dates or times on which he made any of these observations.

The affidavit also included information about two drug purchases made by an individual who was cooperating with and being supervised by the Providence Police Department. One of these transactions occurred inside Mason's apartment building. Once inside the building, the cooperator paid Mason for a quantity of crack cocaine and Isom handed the drugs to the cooperator. The second transaction involved cocaine and was conducted by Isom and the cooperator in a car outside of Mason's apartment building.

Mason's counsel called Partridge as a witness at the suppression hearing. A large part of his questioning focused on whether there were any notes or reports that documented the surveillance observations Partridge reported in his affidavit. Partridge testified that although he probably took some notes, they were not retained and he no longer had them. He also testified that it was not his practice to use surveillance reports, that he had not been trained to take surveillance notes, and that he did not report his surveillance observations or his early conclusions based on those observations to his superiors. He acknowledged that no shred of paper existed that confirmed the surveillance observations he reported in his affidavit. Specifically, Partridge testified that no note, photograph, videotape, or written surveillance report existed that memorialized his surveillance observations. He also acknowledged that neither he nor any other detective prepared a report to a superior officer documenting surveillance observations or investigative conclusions based on those observations in December, 2003, or January, 2004.

On July 26, 2007, the District Court issued an Order denying Mason's suppression motion based on its finding that the evidence did not support Mason's allegation that

Partridge falsified his affidavit. The court was highly critical, however, of the manner in which the Providence Police Department conducted its investigation, particularly its failure to prepare and retain surveillance reports that could be made available to the defense in discovery. The court noted that Partridge and Conley's testimony that neither routinely made or retained notes of their investigative efforts and observations in this case was astonishing and that it reflected a cavalier and unprofessional approach to police work by the Providence Police Department. The court warned that unless the Providence Police Department instituted reforms to address the "shoddy" police work exhibited in the Mason case, it may have to resort to extraordinary judicial remedies to protect defendants' rights. The court suggested that such remedies might include strong cautionary instructions to juries that they may disregard police testimony that is not corroborated by notes or police reports or that it might bar undocumented police testimony as unreliable and inadmissible.

On August 14, 2007, Partridge located a file related to the Mason case in a box stored in the attic of his home. Among other things, the file contained 12 surveillance reports and Partridge's hand written notes documenting surveillance activities and observations concerning the Mason investigation. Also included in the file were two Providence Police Department Offense Reports related to the Mason and Isom cases that documented the search of the Pavilion Avenue apartment. The reports were identical, with the exception of date and time stamps showing that they were printed on different dates: August 25, 2006; and April 25, 2007. None of the information in the file was exculpatory and much of it tended to corroborate Partridge's statements in the search warrant affidavit.

In a witness statement signed by Partridge on August 15, 2007, he explained that he had looked through two boxes of files stored in his attic before his suppression hearing testimony, but had not discovered materials related to the Mason case. He said that he reinspected the boxes after the hearing because Lieutenant Thomas Verdi, the commanding officer of the Providence Police Department's Narcotics and Organized Crime Unit, told him that he recalled reviewing surveillance reports in the Mason case and instructed Partridge to conduct another search for those reports and related materials. Partridge explained that he missed these materials when he first searched the boxes because he had examined the exterior of the packages in the boxes for the relevant case number, but had not inspected the contents of the individual packages in the box as he did in his second search.

On the afternoon of August 14, 2007, Partridge provided the file to Lieutenant Verdi. Verdi immediately notified Assistant United States Attorney Sandra Beckner, who was prosecuting the Mason case, of the file's existence. Beckner reviewed the file on August 15, 2007, and the next day, on August 16, the United States Attorney's Office filed a motion to dismiss Mason's indictment with prejudice on the grounds that the late discovery of the file might unfairly prejudice Mason. The motion to dismiss specifically referred to the Providence Police Department Offense Reports dated-stamped August 25, 2006, and April 25, 2007, contained in the file and acknowledged that the discovery and existence of those documents contradicted the impression created by testimony at the suppression hearing. On August 20, 2007, after holding a hearing on the issue, the court granted the motion to dismiss.

Investigative Findings and Conclusions

The investigation of the circumstances surrounding Partridge's discovery of the materials in his attic and his testimony at the suppression hearing did not reveal any evidence that Partridge knowingly lied at the suppression hearing or that he intentionally failed to disclose the materials in his attic prior to the suppression hearing to obstruct justice. Rather, based on interviews conducted with Partridge, Conley, Verdi, and Beckner, Partridge's failure to turn over these materials in a timely manner appears to have been the result of confluence of factors including a lack of diligence by Partridge, the implementation of new procedures in the Narcotics and Organized Crime Unit, confusion over the record retention policies of the Providence Police Department by Partridge and others, and the passage of about three years from the initiation of the Mason investigation and the federal adoption of the case.

Partridge was assigned to the Narcotics and Organized Crime Unit for about four years. He left the Unit in December, 2005, when he was promoted to Sergeant and reassigned to the Patrol Bureau. Verdi took command of the Narcotics Unit in May, 2003, about half way through Partridge's tenure with the Unit. Within a few months of Verdi's assumption of the Narcotics command, he began to implement new policies and procedures, including requiring detectives to prepare and submit surveillance reports to him or a designated sergeant as part of the process of requesting departmental authorization to apply for a search warrant. This new procedure was implemented roughly around the time that the Mason investigation commenced in October or November of 2003. Prior to this time,

detectives in the Narcotics Unit were not required to produce surveillance reports or to otherwise document surveillance activities for their superiors. Surveillance activities were only documented in search warrant affidavits and any notes made about those activities were typically destroyed.

Partridge explained that his recollection at the time of the suppression hearing was that the Mason investigation predated Verdi's implementation of the surveillance report procedure. He believed that he had not been required to produce surveillance reports and had not done so in connection with the Mason case. He said that prior to the suppression hearing he had searched appropriate file cabinets at the police department where such reports would be stored and found nothing related to the Mason case. Partridge said that this confirmed his belief that he never prepared surveillance reports in the Mason case.

Verdi told investigators that at the time of the suppression hearing he believed, but was not certain, that he had implemented the surveillance report policy prior to the Mason investigation. He attended the suppression hearing and observed Partridge's testimony. He said that he spoke with Partridge at the courthouse after he testified and told him that he believed the policy was in place during the Mason investigation and that he believed he had reviewed surveillance reports in the case. Partridge disagreed and told Verdi that he did not think surveillance reports had been prepared in the Mason case. Verdi explained that he was unsure if Partridge was correct, but the more he thought about the matter the more he thought the surveillance report policy was in place during the Mason investigation. Some time after the suppression hearing, Verdi directed Partridge to search again for surveillance reports and

associated materials. This prompted Partridge to re-examine the materials in his attic, which led to his discovery of the file related to the Mason case.

Under the policies and practices of the Narcotics Unit, as the primary detective in the Mason case, Partridge was responsible for completing any required surveillance reports and for maintaining a file related to work done on the case. This was an informal “work file” that typically contained investigative notes prepared by the primary detective and other detectives, background information like criminal histories and motor vehicle information on investigative subjects, notes about tasks to be accomplished, and similar materials. The “work file” was kept by the primary detective and its contents were not typically incorporated into the formal criminal investigative file that was provided to the prosecutor and used as a basis to provide discovery to the defense.

It was the “work file” in the Mason case that Partridge discovered in his attic. Partridge removed the file together with some other materials unrelated to the Mason case from the Narcotics Unit when he was promoted and transferred to the Patrol Bureau in December, 2005. Partridge said that his understanding at that time was that detectives kept such materials with them when they were transferred to other units of the Providence Police Department. He said that he stored the Mason “work file” and other unrelated materials in two boxes in his attic. Partridge’s removal of the “work file” from the Narcotics Unit was apparently in violation of the Providence Police Department’s policies and procedures. Partridge said, however, that he was not aware of a policy that prohibited the removal of such materials from a detective’s former unit upon his transfer to another unit and that he thought

he was acting in accordance with accepted practice when he kept case related Narcotics Unit materials with him when he was transferred. The investigation of this matter revealed confusion about whether the Providence Police Department had a policy in place in December, 2005, regarding the removal of investigative materials from investigative units upon personnel transfers and the extent to which such policies, if they existed, were enforced.

The passage of time is another factor that impacted Partridge's conduct in this case. The case against Mason was essentially dormant for several years while he was at large as a fugitive. Isom had been arrested on January 16, 2004. He was granted bail and his case remained pending in the state court system until he and Mason were indicted federally on October 4, 2006. Mason was arrested by U.S. Marshals on October 6, 2006. Between January 16, 2004, and October, 2006, Partridge had been promoted and transferred to the Patrol Bureau. Partridge essentially had no involvement in the Mason case from the time he left the Narcotics Unit in December, 2005, until case was adopted federally. Additionally, Partridge had been out of work on medical leave for nearly one year between March, 2006, and February, 2007.

Although he was on medical leave at the time, Partridge attended a meeting with Assistant United States Attorney Beckner in August, 2006, at which the possible federal prosecution of Mason and Isom was discussed. Conley and Verdi also attended this meeting. After Mason was indicted, Beckner met with Conley and asked him to turn over any surveillance reports that may have been prepared. Beckner later met with Partridge in late February or early March of 2007 in preparation for trial and a possible suppression motion.

She met with Partridge again on May 25, 2007, and June 22, 2007, in preparation for the suppression hearing. At each of these post-indictment meetings Beckner asked for surveillance reports and investigative notes. When Partridge told her that no surveillance reports or notes existed, Beckner advised Partridge that he should expect to be cross-examined vigorously about the lack of any documentation corroborating the information in his affidavit.

Partridge explained that prior to the suppression hearing he reviewed the materials in his attic in an attempt to find surveillance reports or investigative notes related to the Mason case. He said that he brought the two Providence Police Department Offense Reports dated-stamped August 25, 2006, and April 25, 2007, with him to help him identify the appropriate file number related to the Mason and Isom cases. Partridge believed that Conley had previously provided him with those reports.

Partridge said that he made a cursory inspection of the materials in his attic. He did not examine each item in the boxes. Rather, he examined the exterior of each package or folder in the boxes to see if it referenced the case number related to Mason and Isom. When he did not find a folder bearing the correct file number, Partridge assumed that no materials related to the Mason case were in the boxes. He said he placed the two offense reports dated-stamped August 25, 2006, and April 25, 2007, in one of the folders and abandoned his search.

Based on his cursory search of the materials in his attic and his failure to find any surveillance reports in the files at the Providence Police Department, Partridge reported to

Beckner that there were no surveillance reports, notes, or other materials that corroborated the statements in his affidavit. His testimony at the suppression hearing was consistent with his belief that no such materials existed.

When, after the suppression hearing, Verdi directed Partridge to search again for surveillance reports, Partridge revisited his attic and thoroughly examined the contents of the boxes. This time, Partridge removed the contents of each package or folder. Partridge discovered that the “work file” relating to the Mason case was inside a folder pertaining to another case in such a fashion that it was obstructed from his view during his previous cursory examination of the boxes. Partridge immediately turned the “work file,” which contained the two offense reports dated-stamped August 25, 2006, and April 25, 2007, that Partridge had previously left behind in the boxes, over to Verdi who immediately notified Beckner of the file’s discovery.

These facts do not support probable cause to believe that Partridge committed a crime during his testimony at the suppression hearing. For example, proof of perjury requires, among other things, that a witness knowingly gave false testimony about a material fact with the intention of avoiding a known legal duty to testify truthfully. Similarly, the crime of making a false statement to federal authorities requires proof that a person intentionally provided materially false information about a matter within federal jurisdiction. Rather than supporting the proposition that Partridge lied, the evidence indicates that he testified consistent with his belief at the time of the hearing that he did not prepare surveillance reports and that, besides his affidavit, no notes or other documents existed that documented

his surveillance activities in the Mason case. Additionally, Partridge's account to investigators of his eventual discovery of the "work file" was consistent with other evidence gathered in the investigation and was credible.

Indeed, it would have been contrary to Partridge's interests to conceal the existence of the "work file" at the suppression hearing. Beckner had accurately warned Partridge before the hearing that he would be severely cross-examined about his apparent failure to preserve records that corroborated his affidavit. Although Mason failed to produce sufficient evidence at the hearing to justify suppressing the evidence seized from his apartment, his counsel's examinations of Partridge and Conley painted a picture of shoddy police work that drew a sharp rebuke of the Providence Police Department in the court's suppression Order. If the "work file" had been turned over before the hearing, it is unlikely that Partridge would have been subjected to such pointed questioning because much of the contents of the file corroborated the statements in Partridge's affidavit. In any event, the timely disclosure of the "work file" would have allowed Partridge to demonstrate that he took contemporaneous notes while conducting surveillance, that he prepared surveillance reports, and that he reported his activities to his superiors. These points would have addressed many of the challenges to and concerns raised about Partridge's veracity that were brought up at the suppression hearing.

The determination that Partridge's conduct does not warrant criminal prosecution should not be interpreted as finding that this matter was handled appropriately by the Providence Police Department. This investigation would likely have been unnecessary had

Partridge and others acted with greater diligence in their search for records and had appropriate record retention and discovery policies been in place and enforced by the Providence Police Department. In its suppression Order, the court addressed these and other concerns and their potential impact on the due process rights of criminal defendants. The court's admonitions should be taken to heart and appropriate reforms should be implemented to remove any question about the integrity and consistency of investigative practices and to safeguard the constitutionally guaranteed rights afforded criminal defendants.